

APPEAL NO. 030814
FILED MAY 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 19, 2003. The hearing officer determined that the compensable injury sustained on _____, does not include spondylolisthesis, degenerative joint disease of the lumbar, or a herniated disc; and that the appellant (claimant) did not have disability from April 5, 2002, through the date of the CCH. The claimant appeals, asserting that the respondent (carrier) is not legally permitted to challenge the extent-of-injury issue once a particular body part has been accepted as compensable, absent a showing of newly discovered evidence. The carrier responds, urging affirmance.

DECISION

Affirmed.

The claimant sustained a low back injury on _____. The carrier received first written notice of the injury on August 24, 2001, and accepted the reported sprain/strain injury. Soon thereafter, objective tests were done that showed spondylolisthesis and degenerative joint disease in the low back. The carrier submitted a Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) on October 22, 2001, disputing additional conditions on the basis that they were natural diseases of life and not related to the alleged injury or employment. It thus appears that the carrier timely and properly disputed the extent of the injury, as provided in Section 409.021. The claimant's legal argument is without basis in this case.

Extent of injury and disability are factual questions for the fact finder to resolve. The evidence supports the hearing officer's factual determinations. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Veronica Lopez
Appeals Judge

Robert W. Potts
Appeals Judge